

funds. Please call Debbie Bunker at (406) 444-3201 or Karen Berger at (406) 444-3411 if you have questions about this change in procedure.

STATE-TRIBAL RELATIONS COMMITTEE

Committee Organizes and Plans for Interim...The State-Tribal Relations Committee held its first meeting of the interim on Aug. 27 in Helena. Sen. John Bohlinger was elected chair and Rep. Carol Juneau was elected vice chair. The committee adopted a work plan and a meeting schedule for the interim.

Office of Indian Affairs Reports...Lori Ryan, interim coordinator of Indian Affairs, reported on the recent activities of her office. She has been working with the Department of Public Health and Human Services on tobacco prevention program funding for Indian tribes. The Office of Indian Affairs is arranging a meeting between tribal officials and Gov. Judy Martz for Friday, Oct. 10 in Helena. Tribal officials will meet with the governor in the morning and then will confer with individual department directors in the afternoon. The committee appointed a subcommittee to attend the Oct. 10 meeting. Subcommittee members are Rep. Rick Ripley, Rep. Juneau, Rep. Jonathan Windy Boy, and Sen. Ed Butcher.

Committee to Conduct Dropout Study...House Joint Resolution No. 8, requesting an interim study of the problem of American Indian school dropouts, was assigned by the Legislative Council to the State-Tribal Relations Committee. The committee will conduct the study in conjunction with the Office of Public Instruction. OPI has received a grant from the American Indian Dropout Project that targets six school districts in the state. The grant will assist these districts in developing dropout prevention programs such as mentoring programs and professional development for teachers. Lori Falcon, OPI Indian Education Specialist, described the dropout project. She also provided information on American Indian dropouts in Montana.

Vickie Turner of the Interagency Coordinating Council for state prevention programs summarized the ICC's work and expressed ICC's interest in the HJR 8 study. One of the ICC's five goals is to "reduce school dropout by increasing the percentage of Montana high school students who successfully transition from school to work, postsecondary education, training and/or the military". She said that the ICC could help the committee to circulate the HJR 8 findings and recommendations through its *Prevention Connection* newsletter.

After much discussion, the committee adopted the HJR 8 study plan prepared by staff.

Committee Adopts Work Plan...The committee adopted a work plan for the interim. In addition to the HJR 8 study, the committee will:

- monitor the implementation of House Bill No. 608 (implementation of the government-to-government relationship between Indian tribes and

THE INTERIM

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PAYCHECK DISTRIBUTION CHANGES AFFECT LEGISLATORS

The Department of Administration has upgraded the state payroll software effective with the pay period ended Sept. 5 (payday of Sept. 17). As a result of the upgrade, state employees are seeing changes in the information printed on the paycheck or pay advice. The changes relate to leave activity and leave balances and workers' compensation deductions.

In addition, the distribution of paychecks for employees who work in more than one position has changed. Employees now receive a single paycheck, and if the employee works for more than one agency, the paycheck is delivered to the employee by the agency where the insurance benefit is paid.

The distribution change also affects legislators who receive salary and expense reimbursement for serving on advisory committees or boards outside the legislative branch. In the past, legislators received separate paychecks from each agency where a claim was submitted. Legislators will now receive a single check that combines payments from all agencies; the check will be distributed by the legislative branch because insurance benefits for legislators are paid by the branch.

For example, if you serve on an advisory council supported by the Department of Administration, you will submit your claim for reimbursement to the department as usual. The department will process your claim for salary and expenses. However, when payday arrives, the paycheck will be distributed to the legislative branch for delivery to you (even if the legislative branch is not making a payment to you that pay period). If you are also receiving a salary payment for attending a legislative interim committee meeting, the amounts will be combined on the paycheck.

Conversely, legislators who are full-time state employees will receive salary payments from the legislative branch for attendance at legislative interim committee meetings through the agency where they work full-time.

When we send you paychecks initiated by another state agency, we will provide you as much information as we have regarding the source of the paycheck

- the state);
- monitor the work of the Office of Economic Opportunity and the Department of Labor and Industry in implementing provisions in House Bill No. 2 relating to tribal governments;
- hear reports from the Departments of Corrections, Justice, and Public Health and Human Services, and education agencies on issues relating to American Indians;
- possibly hold a meeting at the Montana Women's Prison in Billings in the spring;
- update *The Tribal Nations of Montana*; and
- prepare a report on federal and state funding provided to tribal governments for the most recent biennium for which information is available.

The committee also adopted the following meeting schedule:

- Sept. 29 and 30, 2003 (Fort Belknap visit)
- Dec. 5, 2003
- March 5, 2004
- late May 2004 (reservation visit)
- July 30, 2004

Visit to Fort Belknap...On Sept. 29 and 30, the committee traveled to the Fort Belknap Indian Reservation to meet with the Fort Belknap Indian Community Council and to tour the reservation. Coverage of the meeting and visit will appear in the November issue of **THE INTERIM**.

For more information about the committee or to be placed on the committee's mailing list, please contact Connie Erickson ((406) 444-3078 or cerickson@mt.gov) or Dawn Field ((406) 444-3073 or dfield@mt.gov). Information and materials can be found on the committee's website at www.leg.mt.gov. Just follow the links for interim committees.

LEGISLATIVE FINANCE COMMITTEE

Meeting in October...The Legislative Finance Committee will meet on Oct. 3. The agenda includes reports on fiscal year 2004 wildfire costs, state revenues, the budget approaches of Montana and other states, and a variety of emerging fiscal issues. The agenda is available on the Legislative Fiscal Division website at <http://www.leg.mt.gov/css/fiscal/lfc.asp> along with other committee information. For further information, contact Clayton Schenck at cschenck@mt.gov or at (406) 444-2986.

Wildfire Costs...An up-to-date report on fire costs will be presented at the October meeting. However, as of Sept. 22, 2003, the estimated state costs before Federal Emergency Management Agency reimbursement is \$71.0 million. These are the costs that the state must pay up-front. It is estimated that after FEMA reimbursement, the net cost to the state will be \$28.3 million. These numbers are estimates and are subject to revisions as negotiations continue. For more information, contact Gary Hamel at gahamel@mt.gov or by phone at (406) 444-5347.

State Budget Process There are four general approaches to budgeting that the states use in one form or another. They are: 1) traditional/incremental budgeting; 2) program-based budgeting; 3) performance-based budgeting; and 4) zero-based budgeting. A large majority of states, including Montana, use the traditional/incremental approach. Most of these states, again including Montana, have incorporated features of the other approaches in an attempt to take advantage of some of the benefits of those methods of budgeting without the drawbacks of those approaches. Some states have made one or more of the other budgeting approaches their predominant approach, but they also have incorporated features from others. It is unlikely that any state would prefer to implement any of one of the four approaches in its purest form. The evolution of state budget systems seems to illustrate that hybrids of the budget models have the best success stories; and state budget systems continue to evolve based upon the fiscal condition and the political climate in which they exist. This summary is from a report that will be presented at the October meeting; the report is available on the Legislative Fiscal Division website or upon request. For further information, contact Jon Moe at jonmoe@mt.gov or at (406) 444-4581.

ENVIRONMENTAL QUALITY COUNCIL

Council to Meet Oct. 8 and 9...The Environmental Quality Council will meet in Room 102 of the state Capitol beginning at 1 p.m. on Wednesday, Oct. 8 and at 8 a.m. on Thursday, Oct. 9. The day-and-a-half meeting has an agenda packed with items ranging from a panel discussion on biodiesel and hydrogen fuel initiatives in Montana to a comprehensive discussion of Montana's major water policy issues.

Most of the Thursday meeting will be devoted to a panel discussion on water policy designed to help the EQC identify issues and chart a direction for further study in accordance with HJR 4. Panel members include Judge C. Bruce Loble, Chief Water Judge; John Bloomquist, Attorney; Holly Franz, Attorney; Stan Bradshaw, Attorney; and Jack Stults, Water Resources Division Administrator, DNRC. The public will have the opportunity to provide input on Montana's water policy issues at approximately 11:30 a.m. on Oct. 9. For further information about HJR 4 water management activities, contact Krista Lee Evans at (406) 444-1640 or kevans@mt.gov.

Representatives from the Department of Environmental Quality will brief the EQC on the status and implementation of metal mine bonding policies and on the progress and status of the mine reclamation and water quality concerns at the Zortman

and Landusky mine sites to help kick off the EQC study of these issues as requested in HJR 43. Also, staff will provide the EQC with a situation assessment of the issues described in HJR 40, which proposes a study of water rights law relative to the reported proliferation of "amenity" ponds constructed on private land.

The EQC will review, revise, and adopt its work plan and the subcommittees' work plans for the interim.

EQC Agency Oversight Subcommittee...The subcommittee will meet in Room 102 from 8:15 a.m. to 12 p.m. on Wednesday, Oct 8. Agenda items include a review, discussion, and approval of the subcommittee's interim work plan; a DEQ presentation of its compliance and enforcement report for the past 3 years; a review of the MEPA process and decisions involving the Holcim, Inc. cement plant's application to burn tires as a supplemental fuel; and a segment on agency rules oversight in general and the proposed baled tire rules in particular. For further information on subcommittee activities, contact Larry Mitchell at (406) 444-1352 or lamitchell@mt.gov.

EQC Energy Policy Subcommittee...The EQC Energy Policy Subcommittee will meet on Oct. 8 from 10 a.m. to 12 p.m. in room 137 of the state Capitol. The subcommittee will review its draft work plan for the interim. For further information on subcommittee activities, contact Todd Everts (406) 444-3747 or teverts@mt.gov.

Minutes of past meetings, draft meeting agendas, and additional information about the Environmental Quality Council are available on the EQC website at <http://www.leg.mt.gov/css/lepo>, by calling (406) 444-3742, or by emailing mtheisen@mt.gov.

ECONOMIC AFFAIRS COMMITTEE

Workers' Compensation and Economic Development Highlight October Meeting...The Economic Affairs Committee is meeting on Oct. 23 and 24 in Room 137 of the Capitol. The committee will consider workers' compensation and economic development issues at the 2-day meeting. On Oct. 23, insurers and others involved in proposing how to simplify workers' compensation statutes will present concerns and make suggestions for changes or additional study. The committee will also hear reports from the Departments of Livestock and Agriculture and a report from Sen. Glenn Roush on a recent meeting of the Pacific Northwest Economic Region.

The Oct. 24 meeting will feature a day-long review of Montana's existing economic development capabilities, proposed objectives, and the role of the university system in economic development.

National, State, and Local Economic Conditions and Options for Economic Development...On Oct. 24, Paul Polzin, University of Montana, Bureau of Business and Economic Research, will present an overview of how the national economy impacts the

state economy. Phil Brooks, an economist with the Montana Department of Labor and Industry, will talk about the state's labor force and employment trends. Economic development officers from Havre, Great Falls, Billings, and Missoula, will discuss their organizations' activities and proposals for improving economic conditions.

The state's chief business officer, Dave Gibson from the Governor's Office of Economic Development, will broaden the focus again to options regarding where Montana wants to head with economic development and how to get there. Mark Simonich, director of the Department of Commerce, will review existing models and building blocks for economic development. John Mercer and Mark Semmens, Board of Regents, will present their perspectives on the Montana university system's role in economic development.

Details Available...Agendas are posted on the Economic Affairs Committee's website. Go to <http://www.leg.mt.gov> and follow the interim committee links. For more information, please contact Pat Murdo at (406) 444-3594 or e-mail her at pmurdo@mt.gov. As with all interim committee meetings, the public is invited to attend.

ENERGY AND TRANSPORTATION

Timely Meeting Held in September...The Energy and Telecommunications Interim Committee met Sept. 16, less than 48 hours after NorthWestern Corporation, the parent company of NorthWestern Energy, filed to reorganize under Chapter 11 of the federal bankruptcy code.

NorthWestern Corporation executives Gary Drook (president and chief executive officer) and Mike Hanson (chief operating officer) traveled to Montana to meet with members of the Energy and Telecommunications Interim Committee and the Montana Public Service Commission. Drook and Hanson made a presentation and answered questions from the elected officials. (The meeting with NorthWestern Corporation executives and subsequent events have received extensive media coverage and will not be covered here.)

Committee Action...Staff presented background information about 11 options for the default supply of electricity. A panel of six energy experts advised committee members on the options as well as factors to consider in their policy deliberations. The committee decided to gather additional information on two options:

- performance-based ratemaking; and
- authorizing the utility that provides default supply service to include generation assets that are owned by the utility in the rate base and to earn a return on those assets.

Each of these options may provide an incentive to provide default supply service or better default supply service.

Committee Adopts Work Plan... Committee members decided to evaluate: the provision of default supply of energy; universal system benefit charges and the use and disposition of universal system benefit funds; and the need for specific statutory authority for Public Service Commission oversight over certain utility transactions. The committee will make use of research conducted by a variety of groups to carry out its assignment to study energy efficiency and conservation practices. The committee also:

- requested that the Public Service Commission provide detailed information to the committee with respect to the authority the commission is seeking over certain types of utility transactions. The committee will solicit public comment on this topic at the November meeting.
- requested that the following information from parties that may represent the state's interests in the NorthWestern Corporation bankruptcy proceeding: parties participating and the capacity in which they are participating; the cost of participation in the proceeding; and the parties' plan to coordinate efforts in order to maximize efficiency and minimize counterproductive actions.

Natural Gas Summit... Committee members and several other legislators participated in a "Natural Gas Summit" hosted by the Public Service Commission and the Burton K. Wheeler Center on Sept. 17. The gathering included experts with a national perspective as well as those with a Montana focus. (Higher natural gas prices are of concern nationwide.) Participants offered a variety of ideas on how to minimize natural gas price volatility or to mitigate the impacts of higher prices. Suggestions included: financial hedging, energy conservation, production of gas on the Rocky Mountain Front, proactive investment in energy facilities by the Montana Board of Investments, construction of "wind pipelines" (electric transmission facilities to export wind power), and allocating a larger share of the universal system benefits revenue to helping low-income Montanans.

Information provided by the speakers may be viewed or downloaded from the Public Service Commission website: <http://www.psc.mt.gov/seminardocuments/NaturalGasSummit.htm>.

Keeping the Lights on and the Hearth Warm... A number of electric and gas utilities have filed for bankruptcy in recent years. In every case, utility services have continued during the bankruptcy.

Nonetheless, many Montanans will experience higher energy costs during the winter heating season. Below are some tips that legislators can share with constituents who are concerned about paying their energy bills.

- Call your utility and ask if the utility will conduct an energy audit.
- Contact the Human Resource Development Council (HRDC) in your area for

assistance with bills and weatherization. Eligibility for assistance is subject to income limitations. A listing of HRDC's is available online at <http://psc.mt.gov/pdf/UtilityRules03012001.pdf> or from Energy Share at 1-800-777-7589.

- Read the *Montana Energy Savers Guidebook* and use the checklist provided to identify energy-saving opportunities. The guidebook is available online at <http://www.deq.mt.gov/energy/EnergySaverBk.pdf> or from the Montana Department of Environmental Quality by calling (406) 444-6697.
- Certain energy efficiency improvements qualify for the Montana Energy Conservation Tax Credit. Information about the credit is available at <http://www.deq.mt.gov/energy/EEHome/TaxIncentHome.asp> or by calling DEQ at (406) 444-6697.
- Montanans who are not eligible for free energy audits or weatherization programs can hire an insulation contractor.
- Information on purchasing energy efficient appliances may be found on the Energy Star website at <http://www.energystar.gov>.

Next Meeting Scheduled for November... The committee's next meeting will be held on Nov. 20 in Room 102 of the Capitol.

Want to Know More?... A page with bankruptcy information has been added to the committee website, which also includes agendas, background information, and links. To view the website type "<http://leg.mt.gov>," click on "Committees," then click on "Interim." Don't forget to bookmark the website!

Contact Mary Vandenbosch at (406) 444-5367 or mvandenbosch@mt.gov for more information or to be added to the mailing list. Both snail mail and e-mail options are available.

SJR 32 SUBCOMMITTEE ON MEDICAL LIABILITY INSURANCE

Subcommittee Hits the Ground Running on Insurance Liability Study... At its May meeting, the Legislative Council created a subcommittee to study medical liability insurance issues requested by Senate Joint Resolution No. 32. The subcommittee met on Sept. 22. Rep. George Golie is the presiding officer and Sen. Duane Grimes is the vice presiding officer.

The subcommittee received a staff briefing on issues related to medical liability insurance and focused on collecting information, data, analyses, and the like from representatives of various health care facility and health care provider "stakeholders"

in medical liability insurance, as well as representatives of physicians, dentists, the legal community (both plaintiff and defense counsel), insurers, the state Insurance Commissioner, and others. In short, the subcommittee began to build the foundation on which findings and conclusions may be based and for the future identification and discussion of public policy options.

Meeting in Billings Scheduled for November...The next meeting of the subcommittee is scheduled for Nov. 16 and 17 in Billings, times and venues to be determined. The agenda will be full as the subcommittee receives a legal history on medical liability law in Montana (constitutional, statutory, and case law) and a briefing on the purpose, duty, and authority of the Montana Medical Legal Panel. The subcommittee will also examine and consider additional information on:

- liability insurance premiums and availability;
- possible effects of increases in premiums;
- changes in the frequency and severity of medical malpractice lawsuits, including claims, settlements, and verdicts;
- variances in the rates of increase in premiums among different medical specialties and among different medical facilities;
- specifics regarding the actuarial experience of several facilities that are in the process of creating a "captive insurer", i.e., a form of self-insurance; and
- separate surveys to be designed and conducted by: the Montana Hospital Association; the Montana Medical Association; and insurers (through the American Insurance Association).

Subcommittee Adopts Meeting Schedule...In addition to the meeting scheduled in Billings, the subcommittee adopted a tentative meeting schedule that includes meetings on Jan. 13, 2004; March 25, 2004; and June 22, 2004. More details of the meetings, past and future, will be posted to the subcommittee's website as they become available.

For further information, please check the subcommittee's website at <http://www.leg.mt.gov>. Click on "Committees" and follow the "Administration" link to the Legislative Council. If you have questions about the subcommittee, contact Dave Bohyer, Legislative Services Division, by phone at (406) 444-3064 or by e-mail at dbohyer@mt.gov.

CHILDREN, FAMILIES, HEALTH, AND HUMAN SERVICES

Committee Elects Officers and Undertakes Studies...The committee met Aug. 22 for the first time this interim and elected Rep. Don Roberts as presiding officer and Rep. Eve Franklin as vice presiding officer. Gail Gray, director of the Department of

Public Health and Human Services, provided an overview of the department's programs and current budget.

The committee decided to spend most of its time this interim to the two interim studies assigned to the committee by the Legislative Council. House Joint Resolution No. 3 requests a study on representation for parents involved in the child abuse and neglect system, and Senate Joint Resolution No. 11 requests a study on drug and alcohol abuse prevention, early intervention, treatment, and alternatives to incarceration. The committee also decided to monitor the issue of mental health, especially children's mental health.

Committee to Meet 2 Days in October...The next meeting will be on Oct. 30 and 31 in Room 102 of the Capitol. On Oct. 30, from 8 a.m. to 5 p.m., the committee will hold a drug and alcohol policy forum. The committee will review expenditures on substance abuse prevention and treatment in Montana and the definitions and types of programs involved in prevention, early intervention, and treatment. The committee will also request information from the Departments of Justice and Corrections on their efforts related to substance abuse. The committee will also discuss the functions of treatment courts. In the afternoon, a panel will discuss the strengths and weaknesses of Montana's continuum of services in order to help the committee in setting priorities for the January, March, and May meetings.

The committee will meet from 8 a.m. to 12 p.m. on Oct. 31. Gail Gray will provide a department report, and committee staff will present the HJR 3 study plan on representation for parents involved in child abuse and neglect proceedings. Public comment will be solicited on each day. Agendas will be posted to the committee's website by Oct. 17. Go to the legislative branch homepage at <http://www.leg.mt.gov> and follow the interim committee links.

If you need more information or wish to be placed on the interested persons list, contact Susan Byorth Fox at (406) 444-3597 or sfox@mt.gov.

LAW AND JUSTICE COMMITTEE

Committee to Meet in October...Public defenders will be the focus of the Law and Justice Interim Committee meeting slated for Oct. 23. The meeting will begin at 9 a.m. in Room 102 of the state Capitol. The morning session will involve background and information reports on the legal right to counsel, national issues, various models of delivering and funding public defender services, and Montana's current law. The committee will also be briefed on the ACLU class action lawsuit against the state and seven Montana counties that alleges a fatally flawed public defender system.

The afternoon session will feature a roundtable discussion among committee members and several invited guests, including the chief justice and representatives of public defenders, county attorneys, district judges, court administrators, counties, and the state appellate defender's office. The purpose of the discussion is to identify and

analyze the problems with Montana's current system that may require legislative attention. Following the roundtable discussion, the committee will solicit general public comment.

As required by House Bill No. 211 from the 2003 session, the Board of Pardons and Parole will report on the disposition of applications for parole made by Native Americans.

For more information, please contact Sheri Heffelfinger, (406) 444-3596, or go to the committee's website accessible from the Legislative Branch home page at www.leg.mt.gov.

FOOD SHARE

The Legislative Services Division is setting up a Food Share basket in its lobby. Please consider bringing a donation of nonperishable food the next time you come to the Capitol.

TIME AND TIDE

<u>Event</u>	<u>Days remaining</u>
Special session	?
Target date for completion of interim committee work (September 15, 2004)	351
General election (November 2, 2004)	399
59th Legislature convenes (January 3, 2005)	461

THE BACK PAGE

A LONG AND WINDING ROAD:
NAVIGATING HIGHWAY SAFETY IN MONTANA

By Leanne Kurtz, Legislative Research Analyst
Legislative Services Division

Out of this nettle, danger, we pluck this flower, safety. William Shakespeare, Henry IV

Unless it's happened in or near our town or to a public figure, they usually appear as three-paragraph briefs in the newspaper between the blurb on the dedication of a new park and the story of the moose that wandered into someone's yard. We glance at them just in case it's somebody we know or a friend of a friend. Usually it's neither. The stock headlines belie the violence of the accident and the suffering of its aftermath: "Victim of Fatal Accident Identified"; "Woman Killed in Rollover"; "Two Die on State's Highways". Then one day, someone we know or love becomes a highway statistic and we reluctantly join the club of those who know too well the impact a fatal car accident has on families and friends and wonder if something could have been done to prevent the loss.

Hurtling down a stretch of pavement at 70+ miles an hour operating a vessel made of metal and rubber and plastic and glass seems, in itself, an inherently dangerous endeavor. Then consider the fact that on that same stretch of pavement are other vessels of metal and rubber and plastic and glass and that you must trust that the operators of the other vessels are not sleepy, drunk, distracted, angry, reckless, or just unlucky and it becomes even more frightening. Mitigating the dangers of getting from Point A to Point B on our nation's highways is an ongoing challenge for federal government agencies, state governments, legislators, the insurance industry, and anyone who travels the open road. And in Montana, where approximately 70,000 miles of public roads and highways are navigated by motorists with a fierce sense of individuality and a cultural resistance to government regulation, promoting highway safety becomes a tightrope act worthy of the Flying Wallendas. What follows is a snapshot of statistics, a discussion of some of the 2003 Legislature's initiatives to address highway safety, and a look at measures the federal government and the Montana Department of Transportation (MDT) are taking to minimize accidents and fatalities. Opinions may differ on the solutions, but everyone can agree that even one death as a result of a car accident is one too many.

GRIM STATISTICS

According to the Montana Highway Patrol's Annual Report for 2002, that year saw 269 fatalities in 232 fatal crashes, 10,083 injuries in 6,479 injury crashes, and 23,529

crashes reported, with a total economic loss of \$757 million.¹ The state averaged one fatality every 33 hours and one injury every 52 minutes. A statistic frequently cited in the news briefs compares the latest highway fatality with the rate this time last year, according to records kept by the Highway Patrol.² By September 8, 2003, 180 people had died on Montana highways compared to 174 on the same date last year.

Highway Patrol records also track important details about the crashes and fatalities, such as whether alcohol³ or speed were factors, how many of the crashes were single vehicle crashes, if seatbelts were used, and whether the road condition played a role. Comparison data for those factors is displayed in the table on the following page.

¹ Economic losses are estimated based on information from the National Safety Council and include wage loss, medical expenses, insurance administration, and property damage.

² The source of the comparison data is the *Montana Highway Patrol Fatality Crash Information, 01 January through 08 September for 2002 and 2003*. The report contains the following note: "This is an unofficial report, based on the initial assessment of a crash. Once a crash investigation is complete, these numbers may change. The official report will be generated at year end, reflecting only those numbers resulting from completed investigations for the year."

³ The determination of whether alcohol was a factor in an accident is made by the investigating officer and does not necessarily mean that the driver of the vehicle had a blood alcohol concentration value at or above the limit provided by law. In general, if an investigating officer can determine through observation, testing, interviews, or a combination that a driver of a vehicle involved in an accident had consumed alcohol, alcohol will be listed as a contributing factor. Additionally, the National Highway Traffic Safety Administration's National Center for Statistics and Analysis defines "alcohol related fatalities" for its statistical reporting as "fatalities that occur in crashes where at least one driver or nonoccupant (pedestrian or pedalcyclist) involved in the crash has a positive Blood Alcohol Concentration (BAC) value." In neither case must a driver have a BAC over the legal limit for an accident to be considered alcohol-related.

Fatality Crash Comparisons January 1 through September 8			
	2002	2003	Percent Change
Alcohol a Factor	60	61	+1.67%
Speed a Factor	70	75	+7.14%
One Vehicle Crashes	116	123	+6.3%
Seatbelts not Used	137	139	+1.46%
Other than Dry Roads	25	31	+24%

Data compiled for MDT's recent Traffic Safety Problem Identification report indicate that inattentive driving, speed too fast for conditions, failure to yield, and careless driving made up the bulk of contributing circumstances in automobile crashes in 2002.⁴ The same report notes that "cell phones were listed as a contributing circumstance in 62 crashes, in a trend that continues upward."⁵ The National Highway Traffic Safety Administration (NHTSA) has estimated that about 1.2 million of the 6 million motor vehicle accidents per year in this country are caused by a distracted driver.⁶ Not all states track mobile phone use as a contributing factor in motor vehicle crashes, so how many of those 1.2 million crashes involved mobile phones is impossible to determine.

But it's not all bad news. One encouraging statistic not included in the above table is that the number of deaths in Montana involving motorcycles was reduced by half (22 in 2002 compared to 11 in 2003) in the 8-month period for which data were collected.⁷ Additionally, MDT's Problem Identification report notes that "incapacitating injuries have

⁴ "Traffic Safety Problem Identification, FY 2004", State and Local Traffic Safety Program Section, Montana Department of Transportation, p. 57.

⁵ *ibid.* p. 56.

⁶ Matt Sundeen, "Driving Hazards: The Phone Factor", *State Legislatures*, September 2003, p. 26.

⁷ While the number of motorcycle deaths did decrease, motorcycle safety remains a national and state safety priority. One of the goals listed in MDT's Highway Safety Plan is to "maintain motorcycle crashes at less than 2% of all crashes, and motorcycle fatal crashes as less than 10% of all fatal crashes."

decreased significantly during the past eight years. . . . It would seem that occupant restraints, airbags and child restraints have accounted for at least part of this decrease. . . . This change in severity may also be changing because of improved emergency medical services and more forgiving roadways."⁸

So many factors can contribute to a driver losing control of a vehicle, and in some cases, all of the variables that lead to a severe or fatal accident or what measures may have prevented one may never be known. To the dismay of many who serve in the Legislature, the body is powerless to control the weather and the resulting dangerous road conditions that plague the state 8 or 9 months of the year. But lawmakers do have a say in matters related to alcohol, cell phones, seat belts, young drivers, and many more facets of highway safety, and they perennially assert that authority with varying degrees of success. Following is a selection of bills proposed by members of the 2003 Legislature that address highway safety. In the interest of space, this summary is not intended to be comprehensive. A number of relevant bills dealing with bicycle safety, pedestrians, speed limits, construction equipment, vehicle equipment, trains, and school buses are not included.

A SAMPLE OF 2003 LEGISLATIVE INITIATIVES

Alcohol/DUI

Senate Bill No. 13 (Mahlum) -- Whether changing the legal limit for blood alcohol concentration from 0.10 to 0.08 will have an impact on the number of alcohol-related traffic fatalities remains a topic for debate. There is no debate, however, in the federal government's mandate that states comply with that change or lose federal highway dollars. SB 13 effected that change in 2003, and while several legislators bristled at the federal government's tactics, the measure eased through the Senate and House 3rd Reading votes, 49-1 and 94-4, respectively.

House Bill No. 195 (Younkin) -- States have also been strongly encouraged to enhance penalties for repeat DUI offenders or face redirection of federal highway dollars. HB 195 increased the penalties for repeat offenders, met the federal requirements, and received the blessing of both houses with relative ease. The House passed the measure 89-9 on 3rd Reading, and the Senate followed suit 49-0.

Senate Bill No. 39 (Mahlum) -- Federal highway money will be redirected into safety programs in states that do not enact laws prohibiting open containers of alcohol in vehicles. SB 39 contained that prohibition, and although the Senate sent the bill to the House on a 35-15 3rd Reading vote, it never emerged from the House Judiciary Committee, despite a couple of attempts to bring it out of committee onto the House floor for debate. As a result of the bill's failure to pass, the federal government will be requiring the redirection of \$5.6 million from highway maintenance and construction to

⁸ "Traffic Safety Problem Identification, FY 2004", State and Local Traffic Safety Program Section, Montana Department of Transportation, p. 14.

highway safety and hazard elimination, which may include slope flattening, installing guardrails, straightening dangerous curves, and adding rumble strips. A bill similar to SB 39 is likely to be requested for the 2005 session.

Cell Phones

Senate Bill No. 175 (Toole) -- Senator Toole's bill would have prohibited driver use of hand-held electronic communication devices. Seventeen states have enacted laws that address mobile phone use while driving (not all of the laws are outright bans), and at least six states are studying the matter.⁹ While members of the Senate Highways and Transportation Committee acknowledged that distracted driving as a result of cell phone use is a serious problem, those who opposed the bill countered that cell phones are just one of many potential distractions and that educating the driving public of the dangers of failure to concentrate would be preferable to enacting a new law prohibiting hand-held cell phone use. The bill failed to reach the Senate floor.

Seatbelts

House Bill No. 234 (Cohenour) -- Section 61-13-103, MCA, Montana's law requiring the use of seatbelts, provides that the "department or its agent may not require a driver who may be in violation of this section to stop except upon reasonable cause to believe that the driver has violated another traffic regulation or that the driver's vehicle is unsafe or not equipped as required by law." HB 234 would have allowed an officer to stop a vehicle if the driver or an occupant was under 18 years of age and not wearing a seat belt, making the seat belt law a "primary" offense for those under 18. The bill made it through the House but was indefinitely postponed in the Senate Judiciary Committee.

Senate Bill No. 217 (Mahlum) -- This bill, enacted by the 2003 Legislature, requires the use of child safety restraints in motor vehicles for children under 6 years of age who weigh less than 60 pounds. Prior to this legislation, the child restraint law, requiring safety restraint systems for children under the age of 4 or weighing less than 40 pounds, was a "primary" offense, meaning that an officer was able to stop a vehicle for the sole purpose of a violation of the child safety restraint requirements. An amendment to SB 217, however, inadvertently changed the law to a "secondary" offense, subject to the same provisions as the seatbelt law that prohibit an officer from stopping a vehicle unless the officer suspects another traffic violation (see the excerpt from 61-13-103, MCA, above). A bill to correct this error will likely be proposed during the next legislative session.

Young Drivers

House Bill No. 226 (Gillan) -- HB 226 would have imposed driving restrictions during the first year of licensure on first-time drivers under 18 years of age and would have required a first-time driver under 16 years of age to hold an instruction permit or a traffic

⁹ Matt Sundeen, "Driving Hazards: The Phone Factor", *State Legislatures*, September 2003, p. 29.

education learner's license for at least 3 months before the driver would have been eligible to obtain a license. Otherwise known as the "graduated teen driver's license" bill, HB 226 was approved by the House on an 84-15 3rd Reading vote but fell six votes shy of clearing the Senate on 2nd Reading and was indefinitely postponed by the body. HB 226 was Gillan's second attempt to place a graduated teen driver's license law on the books. A similar measure, HB 403, was vetoed by the Governor in 2001.

SAFETY PLANNING

Enacting legislation is just one of a number of ways highway safety can be enhanced, and bills that may have the best interests of the driving public as their sole motivation are still subject to the vagaries of politics and the public's distaste for government regulation. In addition, the Legislature and agencies charged with promoting highway safety recognize that simply adding more laws does not necessarily change behavior. Education, allocation of financial and law enforcement resources, and planning are all additional avenues to be explored.

MDT is making highway safety an agency priority. At the June meeting of the Revenue and Transportation Interim Committee, Deputy Director Jim Currie proposed that the topic be a regular agenda item for the Committee during the 2003-2004 interim so that the agency can keep members up to date on its safety initiatives.

The agency has recently reorganized its State Highway Traffic Safety Office (SHTSO) and hired a Safety Officer. SHTSO published a number of goals and objectives for the next 3 years. The goals include decreasing the incidence of impaired driving, increasing seatbelt usage, reducing overall traffic fatalities and serious injuries, and educating local officials on problem areas and ways to mitigate the problems.

Section 402 of 23 U.S.C. provides: "Each State shall have a highway safety program approved by the Secretary, designed to reduce traffic accidents and deaths, injuries, and property damage resulting therefrom. Such programs shall be in accordance with uniform guidelines promulgated by the Secretary . . . [S]uch uniform guidelines shall include programs

(1) to reduce injuries and deaths resulting from motor vehicles being driven in excess of posted speed limits,

(2) to encourage the proper use of occupant protection devices (including the use of safety belts and child restraint systems) by occupants of motor vehicles and to increase public awareness of the benefit of motor vehicles equipped with airbags,

(3) to reduce deaths and injuries resulting from persons driving motor vehicles while impaired by alcohol or a controlled substance,

(4) to prevent accidents and reduce deaths and injuries resulting from accidents involving motor vehicles and motorcycles,

(5) to reduce injuries and deaths resulting from accidents involving school buses, and

(6) to improve law enforcement services in motor vehicle accident prevention, traffic supervision, and post-accident procedures."

To this end, SHTSO has recently completed the "Montana Combined Performance and Highway Safety Plan, Federal Fiscal Year 2004", which must be approved by the regional administrator of NHTSA in order for Montana to be eligible for federal highway funds. Safety priority areas identified by NHTSA for which MDT's Safety Plan describes countermeasures are alcohol and other drugs, police traffic services, occupant protection (seatbelts and other safety restraint systems), traffic records, emergency medical services, and motorcycle safety. The Safety Plan asserts that the use of alcohol and other drugs while driving and the lack of use or misuse of safety restraint systems stand out as the top two problem areas in Montana, based on MDT's problem identification process and fatality data.

According to the Safety Plan, the national average of alcohol-related fatal crashes is 0.63 per 100 million vehicle miles traveled compared to Montana's rate of 0.92. One of the goals listed in the Safety Plan is to reduce Montana's rate to 0.70 by 2005 through enhanced enforcement, training, public information campaigns, upgrading mobile radio systems, and better tracking and monitoring of alcohol and drug offenders.

An excerpt from the Department of Justice's website reads, "In 2002, 214 people died on Montana highways in crashes involving passenger vehicles. Nearly 80 percent of them - 168 drivers and passengers - either didn't use or improperly used their seatbelts. In all likelihood, most, if not all of the 95 people who were killed because they were partially or completely ejected would be alive today had they been wearing their seatbelts." While the percentage of Montanans who do use their seatbelts has increased dramatically from 16.8% in 1984 to a current 79.5%, MDT's Safety Plan aims to expand usage to 85% by 2005 under current law and 87% if the law is changed to allow for enforcement of the law as a primary offense. Education and training continue to be the means to this end.

Other goals as stated in the Safety Plan are:

- ? to reduce by 5% the hazardous actions (careless driving, speeding, failure to yield, alcohol, following too closely, improper turns, and improper backing) reported in crashes;
- ? to provide a traffic records system capable of monitoring traffic crashes on all public ways of the state, and the key facts associated with them;
- ? to reduce incapacitating injuries to persons from motor vehicle crashes below 1,500 per year;
- ? to maintain motorcycle crashes at less than 2% of all crashes and motorcycle fatal crashes at less than 10% of all fatal crashes;
- ? to provide timely and accurate public information and education that explains issues or actions to abate traffic safety problems; and

? to provide an annual public information and education program that focuses on the two key issues of alcohol and occupant protection, and other traffic safety related issues and actions to improve the state's rates for traffic crash fatalities, injuries and economic losses throughout the state.

For a piece entitled "Things That it Took Me 50 Years to Learn", humor columnist Dave Barry wrote: "The one thing that unites all human beings, regardless of age, gender, religion, economic status or ethnic background, is that, deep down inside, we ALL believe that we are above average drivers." Unfortunately, reality paints a far different picture. And even the best, most safety-conscious driver can fall victim to ice, poor visibility, a deer, a vehicle malfunction, or another driver. It is probably safe to assume that most Montanans have been touched in some way by a serious injury or death that occurs as a result of a motor vehicle accident, and it is appropriate that enhancing safe travel on the state's roads and highways has become a high priority. A well-conceived and executed highway safety plan combined with thoughtful consideration of the law by those elected to do so and a responsible driving public should bring about a marked decline in the injury and fatality rates. And even if all the efforts managed to spare just one guy, he'd probably say it was worth it.



INTERIM CALENDAR

UNLESS OTHERWISE SPECIFIED,
ALL ROOM DESIGNATIONS ARE IN THE CAPITOL BLDG.

OCTOBER

- October 2, Revenue and Transportation Committee, Room 137, 9 a.m.
- October 3, Legislative Finance Committee, Room 102, 8:30 a.m.
- October 8, EQC Subcommittee on Agency Oversight, Room 102, 8:15 a.m.
- October 8, EQC Subcommittee on Alternative Energy, 10 a.m.
- October 8, Environmental Quality Council, Room 102, 1 p.m.
- October 9, Environmental Quality Council, Room 102, 8 a.m.
- October 23, Law and Justice Committee, Room 102, 9 a.m.
- October 23, Economic Affairs Committee, Room 137, 10 a.m.
- October 24, Economic Affairs Committee, Room 137, 8:15 a.m.
- October 30, Education and Local Government Committee
- October 30, Children, Families, Health, and Human Services Committee, 8 a.m.
- October 31, Children, Families, Health, and Human Services Committee, 8 a.m.

NOVEMBER

- November 16, SJR 32 Subcommittee on Medical Liability Insurance, Billings
- November 17, SJR 32 Subcommittee on Medical Liability Insurance, Billings
- November 20, Energy and Telecommunications Committee, Room 102